

# Judge throws out perjury case against former prosecutor

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COLUMBIA, S.C. -- A federal judge Friday threw out the perjury case against a former prosecutor accused of lying about a videotape secretly made of a murder suspect's conversation with his lawyer.

U.S. District Judge Dennis Shedd said prosecutors failed to make their case against former Lexington County prosecutor Fran Humphries.

Humphries was charged with lying to a federal grand jury about when he knew the conversation between the murder suspect and the lawyer was taped. Such conversations are protected by law and South Carolina's Supreme Court once said the case called into question "the integrity of the entire judicial system."

Prosecutors contended Humphries knew Lexington County sheriff's deputies recorded B.J. Quattlebaum's conversation in 1995, but told a grand jury he didn't find out about the tape for nearly a year.

"I'm disappointed with the ruling," federal prosecutor Bob Jendron said Friday. "We felt that we had enough material. We have to go back and take a look at other options."

Defense attorney Jack Swerling had asked Shedd late Thursday to dismiss the charge, saying the grand jury statements in question did not influence the investigation. When perjury is the issue, the law requires the statement in question to be pertinent to the matter at hand.

"I have always maintained that I never lied in connection with this matter, nor as it relates to my investigation in this matter," Humphries said. His law license was suspended pending the outcome of this case and Humphries said he did not know if he would return to his job as a Horry County prosecutor.

Federal prosecutors had said comments Humphries made to two of Quattlebaum's other lawyers were evidence he intended to deceive the grand jury when he testified in April 1998.

Those lawyers, Joe McCulloch and Kathy Evatt, testified Humphries indicated in conversations that he knew the conversation had been taped. Both testified Humphries told them he was surprised the sheriff's department still had the tape two years later.

Quattlebaum was initially convicted of shooting and killing William Swartz, 33, after Swartz interrupted a burglary at his home.

The state Supreme Court threw out Quattlebaum's conviction even though the tape was not used during the trial. The justices said Humphries had engaged in prosecutorial misconduct.

Former sheriff's investigator David Grice has pleaded no contest to violating Quattlebaum's civil rights by making the tape.